683 Muhutu has been wounded he receives the indwaza (lit., who cares for) indemnity consisting of one or two goats. If the author of the blows is a Mututsi, he must lend a cow to the Muhutu so that he can have its milk for as long as there is any; the Muhutu gets the full ownership of a bull calf when he returns the cow.

5. Murder

682 Murder cases were under the exclusive jurisdiction of the Mwami at the time when he had the right of life and death over his subjects (1).

1. Cf. Government and Administration, Royal Power, p. 74, note 1.

682 If the murderer (gatozi) and his victim belonged to the same
696 social class, the king ordered the exercise of private vengeance
628 (guhora, to avenge; kwikorera, to avenge one's self), which resulted in endless conflicts between families and clans. The Mwami, however, could throw on the murderer, the full responsibility of his deed, and the relatives of the victim could not then resort to the "vendetta."

682 [112] If the murderer was a Muhutu and the victim a Mututsi, two deaths were exacted.

On the other hand, if a Muhutu had been killed by a Mututsi, recourse to direct vengeance was impossible, but the Mwami could turn over a member of the Mututsi's family to the victim's relatives and have him killed. However, if a fairly important Mututsi killed a Muhutu, neither he himself nor his property would be affected. This iniquitous ruling did not rouse the natives' indignations because it conformed with the law of the land and they therefore submitted to it.

The right of pardon did not exist. However, the king could stop the vengeance (gucha inzigo, lit., to cut the vengeance) and offer compensation (wergild) to the family of the dead man; this was when the latter was a Muhutu, as the Batutsi accepted only blood atonement. For the king to agree to recognize the benefit of the compensation to the victim's family, the dead man had

682 obviously to be an important person, such as an umugaragu of the Mwami. In carrying out the sentence, the murderer had to give the victim's parents many heads of cattle, thirty or sometimes even more.

If a person lost his life in a fire started by a malicious person, the guilty party (or one of his family) was punished by having his head cut off by a member of the victim's family.

683 The abalozi (sorcerers) accused of having caused the death of a man by their evil spells were also punished by the death penalty.

696 If the murderer took refuge in the rugo of a chief, he found there inviolable sanctuary. It would have been a lack of respect to authority to kill a man at the chief's home and the administrators of justice might have been put to death for doing so. In such a case the chief himself brought the murderer before the Mwami.

[113] 6. Special Cases

687 Exceptionally serious cases had to be submitted to the Mwami. The crime of lese majesty brought with it, in the recent past, the death penalty to the perpetrator. The Batwa executioners were charged with carrying out the sentence by strangling (guhotora), spearing (gutera inchumu), cudgeling (gukubita inkoni), or killing with an axe (gukubita intorezo). The criminal could also be thrown into a pit located in Bugessera (near Nyanza) after having been strangled (1), or else he was blinded with a hot iron (2).

1. Abanyiginya accused of having plotted against the Mwami were punished in this way.

2. A chief of the neighborhood of Issave called Kayijuka had his eyes burned out for having shown Nyirayuhi, mother of King Musinga, to a missionary. At this time the custom of the country did not allow noble women to be seen by foreigners.

689 Rain makers (abavubyi) proved guilty of imposture (3) were

> 3. In spite of this terrible punishment the rain makers continued to ply their dangerous but lucrative trade.

drowned in Lake Mugessera.

684 Unmarried girls found to be pregnant suffered the same fate.

7. Unintentional Homicide

●682 It sometimes happens that a beater or a hunter hidden in thick shrubbery is confused with the game or a wild animal and is killed by an arrow. These accidents are regulated in the following way:

If an arrow, after wounding an animal, kills a man, the shooter's responsibility is not involved.

If an arrow intended for an animal misses its target and kills a man who has indicated his presence, [114] the clumsy shooter is considered a murderer and the right of revenge is granted the victim's family. However, if the murderer can prove that the victim gave no signal, he is relieved of responsibility. He can also plead not guilty before the tribunal of the provincial chief or of the king by pointing out, with the help of witnesses, that because of the cries and many signals set off at the same time, he was unable to distinguish his victim's warning whistle, or that the latter moved after having given the signal agreed upon.

If the plaintif's statements are accepted, the tribunal declares that the victim has perished by reason of his own imprudence or of an accident for which the killer cannot be held responsible, and the latter is definitely exonerated.

8. Imputability and Responsibility

672 Except in a case where the guilty one and the victim are of different social ranks, the seriousness of the punishment corresponds ne varietur to a determined offense, and attenuating or aggravating

672 circumstances are not taken into account, except in the case of a theft of provisions, when the judge must make sure whether the motive for the crime was hunger or fraudulent intention.

Children who commit an offense are whipped. Insane criminals are shut up and shackled.

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682 Striking back is considered legitimate in the case of an unjust attack. In the past, if the aggressor was killed, the individual who had legitimately defended himself asked for the Mwami's intervention to stop reprisals by the family of the author of the criminal attempt. The king then forbade the exercise of private vengeance.

[115] 9. Prescription

681 Prescription of the punishment as well as that of public action is unknown in Ruanda's common law.

CHAPTER II. PROCEDURE (1)

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1. Today, with the exception of crimes such as the abduction of cattle and private disputes which are in the cognizance of native tribunals, penal cases in which natives are involved are judged by European courts. The Belgian government has maintained, almost entirely, the native judicial organization in civil affairs. (Cf. J. Vanhove, Les Juridictions indigènes au Ruanda [Native Jurisdiction in Ruanda], Revue Congo, July, 1939).

1. The Various Degrees of Jurisdiction

Usually the parties first attempt to settle their dispute amicably before appealing to the jurisdiction of the hill chief (2).

2. Uruja kujya ibgami rubanza mu bagabo, that is to say literally, "the palaver that

4: Maquet E-5 (1950-1951) 1954 FO42 Rundi FO42

773 from the heavenly world. According to some versions of this tale, they came
564 with their servant, Mutwa, who mated with a forest ape. From that union all Batwa are descended. Such tales clearly reveal the fundamental differences which the Banyarwanda see among their castes.

564 When such a picture of 'natural' differences, so significant from the point of view of power, is accepted, the inevitable consequence is that some
554 men are born chiefs and others labourers. Inferiority and superiority are due not to personal qualities but to membership of certain groups. By belonging to different castes, people have fundamentally unequal rights. If
● [682] an ordinary Mututsi kills a Muhutu, one kinsman of the murderer could eventually be killed in retaliation if the king authorized it. If the murderer was a Muhutu and the victim a Mututsi, two lives were taken.

The principle of the fundamental inequality between social groups thus established in Ruanda has spread from the original inter-caste relations to intra-caste situations. A man superior to another member of his class because of his functions or his wealth, or even his ability, tends to assume towards his inferior an attitude similar to that of a Mututsi *vis-à-vis* a Muhutu. Of course the conception of inequality between superiors and inferiors of the same class is not so rigid as that between the castes, but it permeates all hierarchical situations in Ruanda.

554 The theme of inequality was embodied in the indigenous political organi-
571 zation, so that political relations clearly express the attitudes socially expected from superiors and inferiors. They are quite understandable if one bears in mind that they originate from an inter-caste situation. Authority as such is all-embracing. According to Western conceptions, any authority is defined not only as regards the people who are subject to it, but also in respect of the matters falling within its competence. A man who gives orders to another because they are on different levels in a hierarchical scale may be considered his equal in other relations. In Ruanda, there is almost no sphere of life in which an inferior is free from the interference of his superior. Because Batutsi are considered fundamentally superior to the Bahutu, there is no field in which they can feel equal. This attitude has been transferred to any hierarchical situation. The complementary attitude of dependence is, of course, expected from the inferior. Inferiority is the relative situation of a person who has to submit to another in a clearly defined field; dependence is inferiority in the totality of life. The dependent person has to submit to his master in any question. There is no domain where he is free even to express a contrary opinion. As the dependent has always to
554 acquiesce even when orders are quite impracticable, he has to conceal his
571 opinions and find excuses for not doing what has been ordered. Double-
576 dealing, politeness, or a utilitarian conception of language, are the only defences of the dependent. Some time ago, a Ruanda deliberative assembly of people of standing was asked its opinion on a contemplated reform. When the most important person had given his views, everybody voted for his proposition. But after the assembly, many expressed disagreement. At the

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1. Girls who reached marriageable age with this physical peculiarity were formerly regarded as an evil and a threat to the land. The small development of their breasts was considered a crime. They were called the girls "with undeveloped breasts," impenebere, from the verb guhenebera, meaning "to be limited," "to be brought to nothing."

681 whose legs... came first.

696 Those beings, abnormal or regarded as such, were invariably condemned prior to European penetration. There was no pity for them. They had to be done away with secretly and at night, so as not to be denied passage through the land which had to be crossed. According to popular belief, the mere presence or accidental sojourn of one of those beings could unleash famine or other evils throughout the region.

Chapter 2

Duties of a Purely Utilitarian Nature

644 A. The employees of His Majesty's "Mouth" and "Cup" /departments/, that is to say, the cooks and domestic servants (Abahanga, "the Skillful Ones," and Abozi, "the Washers") have always been regarded as holding the least enviable position at court. The hut in which the servants keep the bowls of milk reserved for the king is /385/ designated by the name of kiryana, "the house that devours its inhabitants," since few are the men who survived their duties. After a varying length of service, they were suspected in almost every case of planning to poison the king, and they died a

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644 violent death when they least expected it. This was for a long time
[682] a sword of Damocles which almost invariably fell upon the head of those who had the misfortune of being selected for that unenvied position.

We shall cite, later on, a few examples of this.

644 B. The cupbearers (abanyanzoga), like their colleagues in
273 the royal dairy and kitchen, also practiced a dangerous trade. Their
651 duties involved the obtention of the best beer available, which they had to preserve and to offer at the moment it was desired. They were numerous, and some of them lived near the king while others roamed the land to requisition honey, beer itself, or the bunches of bananas which are used in the manufacture of this precious beverage (1).

1. The head of the cupbearers, a certain Mutagikwa, is regarded thereby as captain of the Indengabaganizi army corps. This is a strictly honorific title, which nevertheless enables him to levy taxes in those territories where he exercises his functions as an officer of the "Cup."
He lives at Nyarugenge in Gassagara, the Buhanga.

[661] Originally, employees in this category theoretically had rights only to bunches of bananas and honey (imitsama), and they roamed the land to obtain them (gutorana). Gradually they took on the habit of behaving like true chiefs and of demanding from the inhabitants contributions in kind, beans, sorghum, cows, etc., as well as forced labor, called buletwa. This permitted them not only to live well, but also to acquire large herds.

644 C. There are several work groups assigned to the cultivation
276 and preparation of the tobacco which is used by the prince. The plants destined for his use come from the Bugoyi /386/ Mata in the Marangara, and Ruyanza and Mussambiro in the Nduga, among other

721 Declarations of war are not made, at least not in Mulera. If a military expedition is to be undertaken, everyone knows about it long beforehand. It is hard to keep a secret. The actual declaration of war is the sound of the antelope horn calling the warriors together.

729 Baumann (1) mentions that spades wrapped with leaves are

1. Baumann, O., Durch Massailand zur Nilquelle [Through the Land of the Masai to the Source of the Nile] (Berlin, 1894), p. 84.

a sign of peace.

[277] Chapter 13

Administration of Justice

671 Law. Ruanda has no codified laws. The administration of justice is the business of the government which takes into consideration long-established customs. This is the only kind of law one can speak of in Ruanda.

Criminal law is not developed here to such an extent that the various types of crimes must be atoned for with specific punishments. We can only indicate approximately the severity of individual punishment, since uncodified law leaves so much to the personal opinion of the judge.

628 178 The basis of justice within the clan is the institution of blood revenge. With the development of the state, this is gradually being pushed into the background, but in Ruanda the process is still in its initial stages. In Kissaka, on the other hand, it is said that before revenge is taken, the chief is notified, and he can forbid taking vengeance for a man killed for robbery.

682 685 Aside from murder, which in Ruanda proper is still punished with blood revenge, the theft of cows is very severely punished, in accordance with the role the cow has in the life of Ruanda.

791 Soothsayers, Sorcerers, and Medicine Men. Besides the
787 babandwa, there are several categories of people in Mulema who know how to exercise power over the living and over spirits in supernatural ways. We shall speak here of bapfumu, bahuzi, balozi, bachunyi, bahinza, and bawubyi.

[319] Bapfumu have the task of communicating with the spirits of the dead (bazimu). They are visited when a death has occurred in the family, and a present of food, sometimes even a goat, is brought to them. They then tell the family where it would be most suitable to build the spirit hut of the deceased (ndaro). Since the mupfumu remains in contact with the spirits of the dead and since these spirits cause illness, he is asked whether a sick person will recover. The mupfumu gives answers with the help of the little board oracle.

The special duty of the bahuzi is to discover poisoners who are known here as balozi and in the Runyoro territory was balogu. If many deaths occur, poisoning is immediately suspected. The muhuzi is summoned to handle this, and it is his task to determine
●[682] who the poisoner is. If discovered, the criminal can be killed, and the evil can, at least for the future, be remedied. The muhuzi goes from one compound to another with his enchanted antelope horn. Everywhere he is most hospitably received by the head of the family who gives him gifts. All are afraid that if he were displeased he might point to them as poisoners, and this always means death. On his rounds the muhuzi is told by the horn where the poison is to be found and who the poisoner is.

791 Persons struck by lightning are also treated by the muhuzi.
821 If lightning strikes a herd of cattle, the owner utters a cry of joy
232 which consists of a long drawn-out "hoo..." as he strikes his lips with his hand. This call is supplemented by the news that the king is taking back his cattle. This is done in order to save the animals that have been stunned. The maganga huzi is then fetched and tries to heal the animals with herbs. For his efforts he is presented with the jaws of the dead animals and the meat on them. The horns of the dead animals are buried at the spot where they
[787] were stricken. Another task of the bahuzi is to prophesy to the sick the outcome of their illness.

7: Roscoe M-5 (1919-1920) 1924
FO42 Rundi FO42

634 [693] the district chiefs formed the council of the king. The court was under the direction of a special man, a kind of steward or *inhebe*.

The district chiefs were also responsible for building and other work for the king and the state; they had to find the necessary workmen and appoint overseers to direct them. Another man of the king acted as a kind of household steward to see that the buildings were kept in repair and properly attended to.

Each district chief appointed chiefs of the second rank or *Ibisonga* in his own district, and they in their turn appointed the chiefs of the third grade or *Abafragizu*. Each district chief also appointed a steward or *inhebe* who acted in his place when he had to be absent from his district. This man always possessed land near his chief so that he might be at hand when he was wanted. His special duty was to take charge of any building for the chief.

Taxation

634 651 Every year a district chief had to bring two or three hundred large pots of honey, each holding some two gallons, and a supply of millet, peas, and beans to the king. This was brought to the district chief by the people on his estate, and he took a portion for himself before passing the required amount on to the king.

[231] Twice in the year each person with cattle gave to the king a cow and a calf to supply him with milk and a fat animal to be killed for his meat. Milk was also sent daily to the court for the use of the king and his household.

Murder

682 628 It was the duty of the relatives of a murdered man to hunt down and capture the murderer and put him to death; they rarely accepted any other settlement. If a murder was committed before witnesses, they would seize the murderer and hand him over to the relatives of the dead man. If, however, one man abused another before witnesses, the offended man

7: Roscoe M-5 (1919-1920) 1924
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might put the other to death without fear of punishment, for the witnesses would state the reason for his action and he would not suffer for it. 682 628

When a murder was committed secretly and the body was found without any trace of the murderer, it caused much difficulty. The relatives had to inform the chief of anything they knew concerning the relations of the dead man with the people of the district. Any person with whom the dead man had had a quarrel or disagreement was captured, and a priest killed a fowl and took an augury in order to find out whether he was guilty or not. Should the augury be in the suspected man's favour he was released, and some other magical means of finding the murderer were tried. [695]

Sometimes a murderer would confess his deed to the king or chiefs and notify his desire to atone. The family of the murdered man were called to a meeting and the murderer had to supply a sheep. The king was present at the meeting and ordered the animal to be killed and cut open, after which the murderer and the head-man of the murdered man's clan placed their hands on the entrails. Portions of every kind of food used by the people were brought and placed in the sheep with purificatory herbs, and again the two men placed their hands in it. The sheep was then called *Maana* or god and was the pledge of peace. Some clans, however, refused to make peace with a murderer and awaited an opportunity of killing either the criminal or some member of his clan.

When a man killed another accidentally and succeeded in proving that there was no malice or intention about the act, he paid fourteen cows to the family of the dead man, with whom he remained on friendly terms. If a man wounded another he paid him eight cows as compensation. [683]

When a warrior killed a man in battle, the king and chiefs honoured him and gave him presents of land and cattle. Sometimes when the king was specially pleased, he would give a warrior a princess to wife. The warrior had to be purified on his return from the battle, but observed no other taboo. 727

9:Maquet E-5 (1949-1951) 1961 FO42 Rundi FO42

marriage coming from another inzu or to be made to another inzu, and whether the council thought that a connexion with such or such lineage was to be accepted, sought, or avoided. A certain number of disputes that the lineage head could not or would not settle alone were submitted to the council. When somebody had lost his cattle and was ruined, the council could determine and apportion a collective contribution to help him out of his difficulties. Finally, blood-feuds were discussed. When a member of the group had been killed by a member of another all the kinsmen of the victim attempted to retaliate by taking of the life of a kinsman of the offender. Compensation was not usual. I was told, however, by the Hutu of Bugoyi that there the murderer's group could prevent the taking of vengeance by handing over a beautiful girl. Political authority kept the feuds under strict control. Permission to retaliate had to be obtained from the king and when it was granted and vengeance had been achieved, the feud was at an end. No further vengeance could be taken. Sometimes the king made representatives of the two lineages share a meal.

As the preceding paragraphs suggest, there was no clear-cut division between the powers of the head and of the council. It was a question of the particular traditions in each inzu and of the individual characters of the persons concerned. Usually, however, the inzu was an oligarchy rather than a monarchy. The head could not rule in opposition to the men of standing in his lineage; they had the means to put pressure on him and then there was the possibility of recourse to the political chiefs, always glad to interfere in a domain which was not completely under their control.

The obligations and rights of the individual members of a primary patrilineage were many. There was first a prohibition on sexual intercourse within the group, which applied to relations whether in or out of wedlock. It was feared that the mating of descendants from the same inzu ancestor would produce sickly and malformed children. A few informants add that exogamy was necessary to promote connexions between descent-groups, these connexions being thought of as beneficial in a vague way. The Ruanda did not distinguish incestuous relations from prohibited relations because of consanguinity. For them all the latter were incestuous. But they recognized order in the degrees of gravity in